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EXAMINER	
STRIMBU, GREGORY J	

ART UNIT	PAPER NUMBER
3634	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/847,759

Applicant(s)

HALL, MARK J.

Examiner

Gregory J. Strimbu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22-24, 26-37, 39, 49-53 and 56-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22-24, 26-37, 39, 49-53 and 56-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2001 and 01 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on July 30, 2007 is acknowledged. The traversal is on the ground(s) that there would be no serious burden on the examiner to examine all of the claims currently in the application. In light of the prosecution history of the application, the restriction requirement has been withdrawn at this time.

Drawings

Figure 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the lead lines for reference characters 16 in figure 1 identify a shelf located at the top of the shelf structure while the lead line for reference character 16 in figures 3 and 5 indicate that the shelf is located at the bottom of the shelf structure. The drawings are objected to because they include superfluous lettering such as "COOLER SHELF" in figures 4 and 5. If the applicant wishes to identify other elements illustrated in the drawings, such as the clip and notches in figure

4, they should be identified with reference characters. Figure 1 is objected to because the lip 34 is not shown and because the lip 32 of the panel 10e is not shown properly. Note that the lip 34 appears to extend below the panel 10e on the right side of the panel 10e while the lip appears to extend above the panel 10e on the left side of the panel. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore,

- 1) the cooler, visi-cooler, walk-in cooler and glass door cooler;

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2) the first and second pairs of support legs are sized such that the forward portion hangs lower than the rearward portion when the rack is hanging, by the upper ends of the first and second pairs of the support legs, from a horizontal shelf; and

3) a clearance is defined between a lower surface of the shelf and an upper surface of the support assembly when the rack is hanging from the shelf, the first and second pairs of support legs being sized such that a cylindrical beverage container having a diameter of about 2.5 inches or more cannot fit within the clearance

must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The amendment filed March 1, 2004 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is the placement of the shelf 16 on the bottom of the shelf structure with the support legs 22a directly attached to the cooler shelf from below the cooler shelf as shown in figure 5.

The amendment filed March 5, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: recitations such as "a spacing defined between the upper ends of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between a rear portion of the shelf and the rearward portion of the support assembly" on lines 9-12 of claim 20, lines 11-14 of claim 30, lines 1-5 of claim 33, lines 11-14 of claim 36, lines 1-5 of claim 58. Although the specification provides support for allowing the insertion of cans at the rear of the rack (see column 2, line 51 and column 4, line 61), it does not provide support for a clearance between the rack and the shelf to allow the insertion of cans into a rear of the rack when the rack is mounted

to the underside of the shelf. Additionally, recitations such as “wherein the first and second pairs of support legs are sized such that the forward portion hangs lower than the rearward portion when the rack is hanging, by the upper ends of the first and second pairs of the support legs, from a horizontal shelf” on lines 15-17 of claim 20, lines 17-18 of claim 30, lines 8-9 of claim 36, lines 16-18 of claim 63. Although the specification provides for the support legs having different lengths (see column 3, lines 2-6 and column 4, lines 39-45), it does not provide support for the legs having different lengths when the rack is mounted to the underside of a shelf. Applicant is required to cancel the new matter in the reply to this Office Action.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the panel including at least one substantially vertical surface as recited in claim 23.

The abstract of the disclosure is objected to because “is provided” on line 2 can be easily implied and, therefore, should be deleted. Additionally, the abstract is objected to because it fails to set forth both the resting on the shelf and hanging from the shelf embodiments.

Claim Objections

Claim 26 is objected to because it depends from canceled claim 25. However, to further the prosecution of the application, it has been assumed by the examiner that claim 26 depends from claim 20. Claim 31 is objected to because it fails to further limit

the structure of the shelving system. If the applicant wishes to claim the combination of the shelving system and a display case, it is suggested the applicant rewrite claim 31 as an independent claim clearly reciting the combination. Claim 57 is objected to because the recitation "upper ends, respectively, disposed above the plurality of cylindrical beverage containers" on lines 8-9 is confusing since it implies the combination of the shelf and beverage containers while the remainder of the claim implies the subcombination.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-20, 22-24, 26-37, 39, 49-53 and 56-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such a "like" on line 6 of claim 1 render the claims indefinite because it is unclear how much like a rod a member must be before it can be referred to as a "rod-like" member. Recitations such as "thereon" on line 13 of claim 1 renders the claims indefinite because it is unclear what the applicant is attempting to set forth. It is unclear what element of the invention is on another element of the invention.

Recitations such as "in a direction from the second plane" on lines 13-14 of claim 1 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Is the applicant attempting to set forth that the stop extends in a direction?

Recitations such as "one end" on line 10 of claim 5 and "an opposite end" on line 11 of

claim 5 render the claims indefinite because it is unclear what element(s) of the invention include the ends to which the applicant is referring. Recitations such as "another structure" on line 14 of claim 14 render the claims indefinite because it is unclear if the applicant is referring to the shelf structure set forth above or is attempting to set forth another structure in addition to the one set forth above. Recitations such as "beverage containers" on line 10 of claim 20 render the claims indefinite because it is unclear if the applicant is referring to the beverage containers set forth above or is attempting to set forth beverage containers in addition to the ones set forth above. Recitations such as "shelf" on line 17 of claim 20 render the claims indefinite because it is unclear if the applicant is referring to the shelf set forth above or is attempting to set forth a shelf in addition to the one set forth above. Recitations such as "articles" on line 2 of claim 27 render the claims indefinite because it is unclear if the applicant is referring to the beverage containers set forth above or is attempting to set forth another element of the invention in addition to the ones set forth above. Recitations such as "of the of the" on line 11 of claim 30 are grammatically awkward and confusing. Recitations such as "means defining a spacing" on line 11 of claim 36 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the words preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). On line 13 of claim 36, it is suggested the applicant change the first recitation of "the" to --a-- to avoid confusion. Recitations

such as “the portion” on line 10 of claim 63 render the claims indefinite because it is unclear which one of the plurality of portions set forth above the applicant is referring to.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 18 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickson. Dickson discloses a shelf structure 10 comprising: a front rod-like member 21 and at least one other rod-like member 21 rearwardly spaced from the front rod-like member and, together with the front rod-like member, defining a first plane; a framework (not numbered, but shown in figure 3) defining a second plane; and at least one support (not numbered, but comprising one of the vertical portions of the rod 13) connecting at least the front rod-like member and the framework, wherein at least a portion of the framework (not numbered, but shown in figure 3) extends at least forward of a projection 36 of the front rod-like member 21 thereon with a stop comprising the U-shaped portion of 15 in a direction from the second plane with at least a component toward the first plane, and wherein the framework comprises further rod-like members 15 extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member 21, members 22 on the front and other rod members for fixing the framework under another structure.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Dickson. Dickson discloses a shelf structure 10 comprising: a front rod-like member 21 and at least one other rod-like member 21 rearwardly spaced from the front rod-like member and, together with the front rod-like member, defining a first plane; a framework (not numbered, but shown in figure 3) defining a second plane; and at least one support (not numbered, but comprising one of the vertical portions of the rod 13) connecting at least the front rod-like member and the framework, wherein at least a portion of the framework (not numbered, but shown in figure 3) extends at least forward of a projection 36 of the front rod-like member 21 thereon with a stop comprising the U-shaped portion of 15 in a direction from the second plane with at least a component toward the first plane, wherein the at least one support comprises legs extending from opposite ends of the front and other rod members, and wherein the framework comprises further rod-like members 15 extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member 21, members 22 on the front and other rod members for fixing the framework under another structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 15-17, 53 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in the preamble of Jepson claim 1 in view of Buday. The admitted prior art in the preamble of claim 1 discloses one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves. The preamble of claim 1 is silent concerning a shelf structure configured to rest on and engage one of the shelves.

However, Buday discloses a shelf structure 11 configured to rest on and engage one of the shelves which is horizontal or inclined, the shelf structure comprising: a front rod-like member 42 and at least one other rod-like member (not numbered, but shown in figure 1 at the rear of the shelf structure 11) rearwardly spaced from the front rod-like member 42 and, together with the front rod-like member 42, defining a first plane and configured to support additional shelving above the first plane; a framework 22a, 22b defining a second plane; and at least one support 32 connecting at least the front rod-like member 42 and the framework 22a, 22b, wherein at least a portion of the framework (not numbered, but shown in figure 1) extends at least forward of a projection (not numbered, but comprising the portion of the bar extending from the front rod 42 to the rod 26) of the front rod-like member 42 thereon with a stop (not numbered, but comprising one of the rods extending between the rod 26 to the rod extending above and parallel to the rod 26) in a direction from the second plane with at least a component toward the first plane; at least one member 34 connecting the front and other rod members (claim 2), the support 32 along with the support 38 comprise legs extending from opposite ends of the front rod 42 and the rear rod (claims 3 and 4);

members (not numbered, but comprising the rods extending between the front rod 42 and the rear most rod) on the front and other rod members for fixing the framework under another structure (claims 15-17).

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art in the preamble of claim 1 with a shelf structure, as taught by Buday, in order to easily dispense items from the cooler.

Claims 9-12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in the preamble of claim 1 in view of Buday as applied to claims 1-4, 15-17, 53 and 62 above, and further in view of Lockwood. Lockwood discloses a shelf structure comprising a front panel 12 at a front side of a stop.

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art in the preamble of claim 1, as modified above, with a front panel, as taught by Lockwood to indicate the price of the item being dispensed from the shelf structure.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickson as applied to claims 5, 18 and 56 above, and further in view of Lockwood. Lockwood discloses a shelf structure comprising a front panel 12 at a front side of a stop.

It would have been obvious to one of ordinary skill in the art to provide Dickson, as modified above, with a front panel, as taught by Lockwood to indicate the price of the item being dispensed from the shelf structure.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in the preamble of Jepson claim 6 in view of Dickson. The admitted prior art in the preamble of claim 6 discloses a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves. The admitted prior art in the preamble of claim 6 is silent concerning an additional shelf structure.

However, Dickson discloses a shelf structure 10 comprising: a front rod-like member 21 and at least one other rod-like member 21 rearwardly spaced from the front rod-like member and, together with the front rod-like member, defining a first plane; a framework (not numbered, but shown in figure 3) defining a second plane; and at least one support (not numbered, but comprising one of the vertical portions of the rod 13) connecting at least the front rod-like member and the framework, wherein at least a portion of the framework (not numbered, but shown in figure 3) extends at least forward of a projection 36 of the front rod-like member 21 thereon with a stop comprising the U-shaped portion of 15 in a direction from the second plane with at least a component toward the first plane, and wherein the framework comprises further rod-like members 15 extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member 21, members 22 on the front and other rod members for fixing the framework under another structure.

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art in the preamble of claim 6 with a shelf structure, as taught by Dickson, to save space within the cooler.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in the preamble of Jepson claim 7 in view of Dickson. The admitted prior art in the preamble of claim 7 discloses a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves. The admitted prior art in the preamble of claim 7 is silent concerning an additional shelf structure.

However, Dickson discloses a shelf structure 10 comprising: a front rod-like member 21 and at least one other rod-like member 21 rearwardly spaced from the front rod-like member and, together with the front rod-like member, defining a first plane; a framework (not numbered, but shown in figure 3) defining a second plane; and at least one support (not numbered, but comprising one of the vertical portions of the rod 13) connecting at least the front rod-like member and the framework, wherein at least a portion of the framework (not numbered, but shown in figure 3) extends at least forward of a projection 36 of the front rod-like member 21 thereon with a stop comprising the U-shaped portion of 15 in a direction from the second plane with at least a component toward the first plane, wherein the at least one support comprises legs extending from opposite ends of the front and other rod members, and wherein the framework comprises further rod-like members 15 extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member 21, members 22 on the front and other rod members for fixing the framework under another structure.

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art in the preamble of claim 7 with a shelf structure, as taught by Dickson, to save space within the cooler.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in the preamble of claim 8 in view of Dickson. The admitted prior art in the preamble of claim 8 discloses a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves. The admitted prior art in the preamble of claim 8 is silent concerning a shelf structure.

However, Dickson discloses a shelf structure comprising: a front rod-like member 21 and at least one other rod-like member 21 rearwardly spaced from the front rod-like member and, together with the front rod-like member, defining a first plane; a framework (not numbered, but shown in figure 3) defining a second plane; at least one support (not numbered, but comprising one of the vertical portions of the rod 13) connecting at least the front rod-like member and the framework, and at least one member 36 connecting the front and other rod-like members, wherein at least a portion of the framework extends at least forward of a projection 22 of the front rod-like member thereon with a stop comprising the U-shaped portion of 15 in a direction from the second plane with at least a component toward the first plane and wherein the framework comprises further rod-like members 15 extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art in the preamble of claim 8 with a shelf structure, as taught by Dickson, to save space within the cooler.

Claims 20, 22-24, 26, 28, 29, 30, 32, 35, 36, 39, 49-52 and 63-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickson in view of Lockwood. Dickson discloses a rack 10 comprising a support assembly 15 having a forward portion (labeled below) and a rearward portion (labeled below) and being configured to support a plurality of beverage containers; a first pair of support legs (labeled below) having lower ends connected to the forward portion; and a second pair of support legs (labeled below) having lower ends connected to the rearward portion, each of the first and second pairs of support legs having upper ends (labeled below) configured to hang the rack from a shelf disposed above the rack; a spacing defined between the upper ends of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between a rear portion of the shelf and the rearward portion of the support assembly; a stop (labeled below) disposed at the forward portion of the support assembly, wherein the first and second pairs of support legs are sized, i.e., the second pair of support legs are longer than the first pair of support legs, such that the forward portion hangs lower than the rearward portion when the rack is hanging, by the upper ends of the first and second pairs of the support legs, from a horizontal shelf. It should be noted that the rack 10 of Dickson, although not shown, is capable of hanging with the front portion lower than the rear portion by

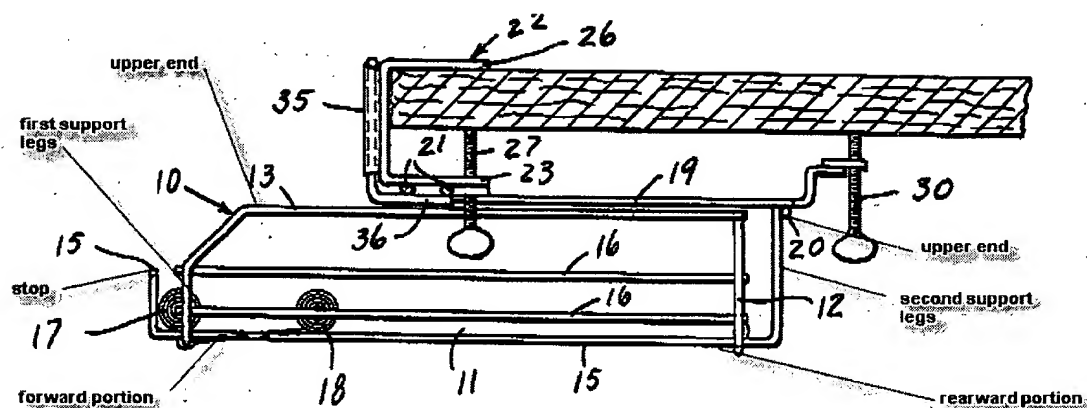
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merely adjusting the threaded fastener 30 (see column 2, lines 42-46); threaded fasteners 27 connecting the upper ends of the first and second pairs of support legs to the shelf; wherein the support assembly is configured to support a plurality of parallel files of beverage containers extending between the rearward portion and the forward portion; wherein the support assembly comprises a wire frame configured to allow cylindrical beverage containers to roll along an upper surface thereof; a plurality of supports 21, 23 configured with sufficient strength to support additional shelving above the beverage containers supported on the first surface; the plurality of supports comprise at least two rod members; apertures (not numbered, but shown where the fasteners 27 penetrate the supports 23). Dickson is silent concerning a panel.

However, Lockwood discloses a shelf structure comprising a front panel 12 mounted on a front portion of a rack; the panel 12 forms a stop; the panel includes at least one substantially vertical surface as shown in figure 1 and a curve (shown as the bend at the top and the bottom of the panel).

It would have been obvious to one of ordinary skill in the art to provide Dickson, as modified above, with a front panel, as taught by Lockwood to indicate the price of the item being dispensed from the shelf structure.

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Claims 27, 33, 34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickson in view of Lockwood as applied to claims 20, 22-24, 26, 28, 29, 30, 32, 35, 36, 39, 49-52 and 63-67 above. Dickson, as modified above, is silent concerning the sizing of the first and second pair of support legs with respect to articles having a dimension less than 2.5 inches.

However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the first and second pairs of support legs with a sizing such that the rack can only receive articles having at least one dimension less than about 2.5 inches.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickson in view of Lockwood as applied to claims 20, 22-24, 26, 28, 29, 30, 32, 35, 36, 39, 49-52

and 63-67 above, and further in view of Richardson et al. Richardson et al. discloses a display case 30 having adjustably mounted shelves 44.

It would have been obvious to one of ordinary skill in the art to adjustably mount the shelf of Dickson in a display case, as taught by Richardson et al., to enable a customer more easily see the items on the shelf.

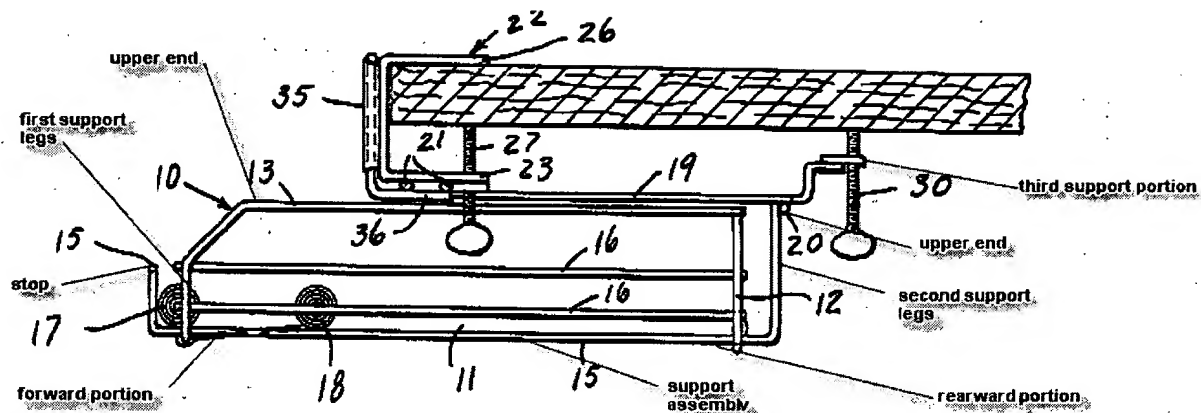
Claims 57-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickson in view of Lockwood. Dickson discloses a shelf 10 comprising: a support assembly (labeled below) having a forward portion (labeled below) and a rearward portion (labeled below), the support assembly defining a support surface configured to support a plurality of cylindrical beverage containers; a stop (labeled below) disposed at the forward portion of the support assembly; first and second support portions 22 disposed at the forward portion of the support assembly, the first and second support portions including upper ends, respectively, disposed above the plurality of cylindrical beverage containers supported on the support surface; at least first and second apertures (not numbered, but comprising the apertures through which the fasteners 27 extend) disposed adjacent the upper ends of the first and second support portions, respectively, the first and second apertures being configured to receive fasteners 27 for supporting the forward portion of the support assembly from a shelf 32 above the support assembly, the first and second apertures being spaced rearwardly from the stop; a third support portion (labeled below) disposed at the rearward portion of the support assembly, the third support portion including an upper end (not numbered, but

shown in figure 3); and at least a third aperture (not numbered, but comprising the aperture through which the fastener 30 extends) disposed adjacent the upper end of the third support portion, the third aperture being configured to receive a fastener 30 for supporting the rearward portion of the support assembly from a shelf above the support assembly; wherein the third aperture is spaced from a rearward-most portion of the rearward portion of the support assembly such that cylindrical beverage containers can be placed onto the rearward portion of the support assembly when the third aperture is connected to a shelf 32 disposed above the support assembly by fasteners. Dickson is silent concerning a panel configured to support a label and a fourth support portion.

However, Lockwood discloses a shelf structure comprising a front panel 12 mounted on a front portion of a rack.

It would have been obvious to one of ordinary skill in the art to provide Dickson, as modified above, with a front panel, as taught by Lockwood to indicate the price of the item being dispensed from the shelf structure.

Additionally, it would have been obvious to one of ordinary skill in the art to provide Dickson with a fourth support portion, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.



Claims 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickson in view of Lockwood as applied to claims 57-59 above, and further in view of Wagner. Wagner discloses a support assembly comprising horizontally extending plates 20 and 22 each including two apertures for attaching the support assembly to a support 60 disposed above the support assembly.

It would have been obvious to one of ordinary skill in the art to provide Dickson, as modified above, with attaching plates, as taught by Wagner, to more securely attach the support assembly to the shelf.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Daniels is cited for disclosing a rack mounted to the underside of a shelf.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-

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272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
October 26, 2007